

12 CSR 10-5.085 Motor Vehicles

PURPOSE: This rule provides that sellers engaged in selling motor vehicles are not liable for and should not collect the tax and interprets and applies section 94.560, RSMo (1986).

(1) Sellers engaged in selling motor vehicles should not collect the state sales tax since the purchaser of the property is required by law to remit state sales tax to the Bureau of Motor Vehicle Registration, Missouri Department of Revenue, at the time the property is titled and registered or show sufficient evidence that state sales tax is not due. The same holds true for city sales tax in that the tax is payable at the time of titling provided the purchaser's address is within the corporate limits of a city imposing city sales tax.

*Auth: section 94.530, RSMo (1986).
C.S.T. regulation 560-1 originally filed
Oct. 28, 1975, effective Nov. 7, 1975.
Refiled Dec. 31, 1975, effective Jan. 10,
1976.*

12 CSR 10-5.090 Mobile Homes

PURPOSE: This rule indicates sellers of mobile homes are subject to tax.

(1) Sellers will be subject to both state and city sales tax on the sales of mobile homes.

*Auth: section 94.530, RSMo (1986).
C.S.T. regulation 560-2 originally filed
Oct. 28, 1975, effective Nov. 7, 1975.*

12 CSR 10-5.095 Over-the-Road Trailers

PURPOSE: This rule indicates that purchasers of over-the-road trailers are subject to the city sales tax of the city in which they reside and interprets and applies sections 94.560 and 144.070, RSMo (1986).

(1) City sales taxes which are imposed on the purchase and sale of over-the-road trailers shall not be collected and remitted by the seller but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a city imposing a city sales tax.

*Auth: section 94.530, RSMo (1986).
C.S.T. regulation 560-3 was originally
filed Dec. 31, 1975, effective Jan. 10,
1976. Amended: Filed Sept. 8, 1976,
effective Dec. 11, 1976.*

Wiethop Truck Sales, Inc. v. James R. Spradling, 538 SW2d 585 (Mo. 1976). Held that the provision of the City Sales Tax Act imposing a duty of collecting city sales tax on the seller of new or used cars does not modify the statute requiring the Director of Revenue to collect Missouri sales tax and thus, the burden of collecting city sales tax on trailers does not shift from the Director of Revenue to the sellers of trailers.

12 CSR 10-5.100 Delinquent Tax

PURPOSE: This rule provides that delinquent city sales tax shall be collected in the same manner as state sales tax.

(1) The collection of delinquent city sales tax will be conducted in the same manner as provided for in sections 144.010—144.510, RSMo (1986) and more specifically, in sections 144.210, 144.220, 144.230, 144.240, 144.250 and 144.261, RSMo (1986).

*Auth: section 94.530, RSMo (1986).
C.S.T. regulation 570-1 originally filed
Oct. 28, 1975, effective Nov. 7, 1975.*

12 CSR 10-5.105 Erroneous Business Locations Transfers from City-to-City

PURPOSE: This rule sets forth the procedures for making transfers from city-to-city when it has been determined that a business has reported the city sales tax incorrectly.

(1) When a business files information with the department indicating a business location, the department will take this information in good faith. Upon receiving proof that the business location is in error, the department will correct the error in a prospective manner only.

(A) Example. On January 1, 1982 a business, upon application for a license, identifies the business location as City A. On July 1, 1985 the department is notified that the business location is actually in City B. The department will correct its records to reflect the business is located in City B effective July 1, 1985.

(2) If a business has filed information with the department indicating a business location and through the department's error the business location is improperly coded, the department, after identifying the error or upon notification, will correct the error in a prospective manner as well as correct distribution

errors retroactively for a period not to exceed two (2) years.

(A) Example. On January 1, 1982 a business, upon application for a license, identifies the business location as City B and the department codes the business as located in City A. On July 1, 1985 the department discovers its error. The department will recode the business to collect and remit City B sales tax effective July 1, 1985. Additionally, the department will perform a reconciliation to adjust City A's distribution and redistribute the revenue in question to City B.

(3) The Department of Revenue will process and redistribute the funds as fast as administratively possible to fully complete the transfer.

(A) Example. City B is to receive a redistribution of funds from City A for twenty thousand dollars (\$20,000). City A's monthly local distribution for this particular month is only fifteen thousand dollars (\$15,000). City A will receive no distribution check for this month and the next month's distribution will be reduced by five thousand dollars (\$5000).

(4) If notified by a local taxing jurisdiction that an account is coded with the improper location, the department will correspond with the other affected local taxing jurisdiction to verify the existence of improper coding. If the local taxing jurisdiction for which the business is coded agrees that the coding is improper, the department will change the location. If the local taxing jurisdiction disagrees that the coding is improper, it has fifteen (15) days to correspond with the department. The department will inform the affected parties in the disagreement that there is a disagreement. If the disagreeing parties desire, and upon their request, the department will hear their complaint and make a final determination of the correct location of the business.

(5) When the department learns a business location is improperly coded, it will notify the taxpayer that the taxpayer has filed in error and the taxpayer should file amended returns for the statutory periods involved.

(6) This rule should not be construed to be in contravention of section 144.100, RSMo which allows a taxpayer to file returns to amend his/her original return.

(A) Example. On January 1, 1982 a business, upon application for a license, identifies the business location as City A. On July 1, 1985 the business files returns amending its location to City B effective January 1, 1982. The department will process the amended returns and make the resulting changes in distribution.



Auth: section 94.530, RSMo (1986). Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed July 2, 1986, effective Dec. 11, 1986.

12 CSR 10-5.500 Other Entity Defined

PURPOSE: This rule defines the term other entity as used in the transportation sales tax act.

- (1) For the purposes of this act, other entity includes firm, copartnership, joint venture, association, municipal corporation and private corporation, whether organized for profit or not.

Auth: section 94.615, RSMo (1986). T.T. regulation 600-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.505 Date of Delivery Determines Applicability

PURPOSE: This rule indicates that date of delivery is the determining factor in the applicability of the transportation sales tax.

- (1) In determining whether a sale is subject to a recently enacted transportation sales tax, the date of delivery is the determining factor. If the tangible personal property sold is delivered after the effective date of the tax, it is subject to the transportation sales tax even though the contract, purchase order or sales slip may have been executed prior to the effective date of the transportation sales tax.

Auth: section 94.615, RSMo (1986). T.T. regulation 605-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.510 Sales Tax Rules Apply

PURPOSE: This rule provides that state sales tax and city sales tax rules also apply to transportation sales tax and interprets and applies sections 94.605.7 and 94.605.8, RSMo (1986).

- (1) All sales tax rules pertaining to the state sales tax sections 144.010—144.510, RSMo (1986), and to the city sales tax sections 94.500—94.570, RSMo (1986), apply to the transportation sales tax unless specifically stated otherwise.

Auth: section 94.615, RSMo (1986). T.T. regulation 615-1 originally filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.515 Layaways

PURPOSE: This rule indicates the date of delivery of layaways is controlling in determining applicability of transportation sales tax and interprets and applies section 94.615, RSMo (1986).

- (1) When a person purchases tangible personal property to be held under a layaway plan and the property is held by the seller until complete payment is received, the seller of the property is subject to transportation sales tax if the date of delivery is after the effective date of a transportation sales tax.

Auth: section 94.615, RSMo (1986). T.T. regulation 605-2 filed as C.S.T. regulation 510-1A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.520 Effective Date

PURPOSE: This rule prescribes the effective date of a transportation sales tax and interprets and applies section 94.605.6, RSMo (1986).

- (1) After the director receives notice of the adoption of the transportation sales tax, the tax becomes effective the first day of the first calendar quarter following notification.

(A) Example. If an election was held in November (fourth quarter), and the notice was provided to the director within ten (10) days, the effective date of the tax would be January 1 of the following year.

Auth: section 94.615, RSMo (1986). T.T. regulation 605-3 originally filed as C.S.T. regulation 510-2 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.525 Tax Imposed

PURPOSE: This rule prescribes that the transportation sales tax is imposed on sellers and interprets and applies section 94.610, RSMo (1986).

- (1) The transportation sales tax is imposed on sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services. When reporting and remitting transportation sales tax to the director, the seller is required to send one (1) check for and will be held liable for computing, his/her liability on the basis of a combined rate of tax by adding the appropriate local tax and the current state tax.

Auth: section 94.615, RSMo (1986). T.T. regulation 610-1 originally filed as C.S.T. regulation 520-1 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.530 Seller Not Entitled

PURPOSE: This rule provides that untimely filing precludes taking the timely filing discount and interprets and applies section 144.140, RSMo (1986).

- (1) A seller who fails to pay timely or pays after obtaining an extension of time for filing his/her return is not entitled to deduct or retain the two percent (2%) timely payment discount.

Auth: section 94.615, RSMo (1986). T.T. regulation 615-2 originally filed as C.S.T. regulation 540-2 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Farm and Home Savings Assn. v. Spradling, 538 SW2d 313 (Mo. 1976). The two percent deduction is allowable only when the person required to remit the taxes does so on or before the date the taxes are due.

12 CSR 10-5.535 Seller Entitled

PURPOSE: This rule indicates that the timely payment of taxes entitles the seller to a deduction and interprets and applies section 144.140, RSMo (1986).

- (1) For every remittance of tax made on or before the due date as required, the seller is entitled to deduct and retain an amount equal to two percent (2%) for timely payment. Note: A purchaser is not entitled to this deduction.

(A) Example. Mr. C operates a retail store and the amount of tax levied and imposed is

between fifteen dollars (\$15) and two hundred fifty dollars (\$250) per month. Mr. C files a quarterly return due on or before the thirtieth day of the month following each quarter. If the return is paid and mailed on or before the thirtieth, Mr. C is entitled to the two percent (2%) discount. The postmark date is prima facie evidence of timely payment.

Auth: section 94.615, RSMo (1986). T.T. regulation 615-3 originally filed as C.S.T. regulation 540-3 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Farm and Home Savings Assn. v. Spradling, 538 SW2d 313 (Mo. 1976). Phrase "person required to remit the same" in statute providing that from every remittance to director of revenue made on or before date when same becomes due, person required to remit same should be entitled to deduct and retain amount equal to two percent (2%) thereof, means seller, not buyer, because it is seller who is required by other provisions of sales tax law to remit taxes due director.

12 CSR 10-5.540 Deductions

PURPOSE: This rule indicates that the deductions contained in certain sections of the state sales tax law also apply to transportation sales tax.

(1) The deductions, as they apply to the state sales tax law, contained in sections 144.030, 144.040 and 144.042, RSMo (1986) also apply to the transportation sales tax law. Specific reference should be made to these sections for further particulars.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-1 originally filed as C.S.T. regulation 540-1 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.545 When Transportation Tax Applies

PURPOSE: This rule aids in the determination of when transportation sales tax applies.

(1) For the purposes of the transportation sales tax law, all retail sales are conclusively presumed to have been consummated at the place of business of the seller/retailer without regard to the location or point of passage of title. The privilege of engaging in the business of selling tangible personal property or rendering taxable services within taxing jurisdictions subjects the seller to the transportation sales tax law.

(2) The sale is subject to transportation sales tax when a seller makes a taxable sale to a purchaser at the seller's place of business or when the order is taken by mail, telephone or by a salesman, even though the property is to be delivered from the seller's place of business located within the taxing jurisdictions to the customer at a point in Missouri outside the limits of the taxing jurisdiction. The sale is consummated at the seller's location, not at the point of delivery.

(3) Example 1. Mr. Mars is a customer of the Orange Company, a Missouri seller located in Sun County, a local taxing jurisdiction. Mr. Mars orders merchandise from Orange Company for delivery to his place of business outside the limits of Sun County. Orange Company delivers the merchandise from the stock of goods on hand to Mr. Mars. Orange Company is subject to Sun County's transportation sales tax on the merchandise sold to Mr. Mars.

(4) Example 2. The Mighty Milk Company is located in Sun City, a local taxing jurisdiction. Mighty Milk has route salesmen and independent salesmen who sell milk in Sun City and in neighboring cities. Some of the neighboring cities have their own local tax and some do not. All sales of Mighty Milk's route salesmen and the independent salesmen are subject to Sun City's transportation sales tax since the sales are considered to be consummated at the place of business from which the salesman works.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-2 originally filed as C.S.T. regulation 540-4 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.550 Place of Business

PURPOSE: This rule aids in determining the place of business where the sale is consummated for transportation sales tax purposes and interprets and applies section 94.620.5, RSMo (1986).

(1) If a seller has more than one (1) place of business in Missouri which participates in a sale, the sale is deemed to be consummated at the place of business of the seller where the initial order is taken and the transportation tax of this location would apply. If a seller has only one (1) place of business in Missouri which participates in a sale, the local tax of this location would apply. For the purposes of this rule, place of business shall include, but not be limited to, sales offices, administrative offices, catalog stores, retail stores, warehouses and factories.

(A) Example. The Story Company has a sales office in Tall City and a combination sales office and warehouse in Short City. Both Tall City and Short City have a transportation sales tax. The Story Company takes an order at its Tall City location from a customer located in Long City which also has a transportation sales tax. The Story Company ships the order from its warehouse in Short City to the customer in Long City. Tall City's transportation sales tax would apply as the initial order was taken in Tall City.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-3 originally filed as C.S.T. regulation 540-4A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales tax, "place of business" of mobile food service business referred to place where initial orders were taken and filled.

**12 CSR 10-5.555 Transportation Tax Applies—Delivery Outside Jurisdiction**

PURPOSE: *This rule provides that delivery from a seller located within a taxing jurisdiction to a purchaser outside the taxing jurisdiction still makes the sale subject to the transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).*

(1) When a seller, located within a taxing jurisdiction, makes a taxable sale to a purchaser and the property is to be delivered from a point in Missouri but outside the limits of the taxing jurisdiction to another such point in Missouri, the sale is subject to the transportation sales tax.

(A) Example. Ms. Venus is a customer of the Orange Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Ms. Venus orders merchandise from Orange Company for delivery at her home located outside the corporate city limits of Sun City. Orange Company delivers the merchandise to Ms. Venus from its warehouse located in Round City. Orange Company is subject to Sun City's transportation sales tax on the merchandise sold to Ms. Venus.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-4 originally filed as C.S.T. regulation 540-5 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales, "place of business" of mobile food service business referred to place where payments were made and sales consummated.

12 CSR 10-5.560 Transportation Tax Applies—Delivery from Outside the State

PURPOSE: *This rule indicates that delivery from outside Missouri does not remove the seller's liability for transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).*

(1) When a Missouri seller makes a taxable sale to a Missouri purchaser and the property is to be delivered from a point outside Missouri to a point either within or beyond the limits of a local taxing jurisdiction, the sale is subject to the transportation sales tax.

(A) Example 1. Mr. Strong is a customer of the Barbell Company, a Missouri seller located in Sun City, a local taxing jurisdiction. Mr. Strong orders merchandise from the Barbell Company for delivery at his place of business and home located outside the corporate city limits of Sun City. Barbell Company orders the merchandise for Mr. Strong from a manufacturing company located outside the state of Missouri. The manufacturing company ships the merchandise by common carrier directly to Mr. Strong's place of business. Barbell Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. Strong.

(B) Example 2. Ms. Stone, a Missouri purchaser located in Sun City, has a mail-order catalog from Rock Company, a vendor located outside the state of Missouri, with no office, property or salesmen in Missouri. Ms. Stone sends an order in the mail to Rock Company for merchandise to be delivered to her place of business by common carrier. Ms. Stone is subject to the Missouri use tax if the merchandise is for storage, use or consumption. The sale is not subject to transportation sales tax.

(C) Example 3. Mr. Mudd, a Missouri purchaser, lives outside the corporate city limits of Sun City. He places an order with Mr. Kleen, a salesman for the Dazzle Company, a vendor located outside of the state of Missouri. Mr. Kleen works from his office in his home in Sun City. The Dazzle Company does not have any other office or property in the state of Missouri. The Dazzle Company fills the order from its warehouse located outside the state of Missouri and ships the merchandise directly to Mr. Mudd's home. The Dazzle Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. Mudd.

(D) Example 4. Mr. LeBeau, a Missouri purchaser located in Sun City, contacts Mr. Dudley, a salesman for the Kam Company, a vendor located outside Missouri without an office in the state of Missouri. Mr. Dudley calls on Mr. LeBeau at Mr. LeBeau's place of business. Mr. Dudley takes the order for

merchandise and returns to his out-of-state location from which the merchandise is then shipped to Mr. LeBeau's place of business. The Kam Company is subject to Sun City's transportation sales tax on the merchandise sold to Mr. LeBeau since the Kam Company is in the business of selling tangible personal property within Sun City.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-5 originally filed as C.S.T. regulation 540-6 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

Fabick and Co. v. Schaffner, 492 SW2d 737 (1973). Jurisdictional arguments based upon lack of reciprocal benefit under city tax law are unavailing because the retailer is within the city imposing the tax and is the recipient of governmental services provided by the city. The contention that only a rebuttable presumption was intended by the phrase "shall be deemed to be consummated at the place of business of the retailer" was rejected. The obvious purpose of the premium was to fix the taxable situs of transactions which might have a nexus with more than one municipality. City sales tax of Jefferson City, like the state sales tax, is a gross receipts tax, not a transactions tax.

Mobile-Teria Catering Co., Inc. v. Spradling, 576 SW2d 282 (Mo. en banc 1978). For purposes of transportation sales tax, "place of business" of mobile food service business referred to places where trucks were parked, wares displayed, initial orders filled, payments made and sales consummated.

12 CSR 10-5.565 Application of Transportation Sales Tax to Rental or Leasing Receipts

PURPOSE: *This rule indicates that transportation sales tax applies to rental or leasing receipts where tax was not paid at the time of purchase and interprets and applies section 94.620.5, RSMo (1986).*

(1) Persons renting and leasing tangible personal property on which Missouri state sales tax was not paid at the time of purchase are subject to the transportation sales tax on the rental and leasing receipts if the rented

or leased properties are generally nonmovable and are used or installed within a local taxing jurisdiction imposing a transportation sales tax for a period of over thirty (30) calendar days, regardless as to where the renter or lessor is located. Persons renting and leasing generally movable items for periods of thirty (30) calendar days or less are subject to the transportation sales tax on the lease or rental receipts imposed by the local taxing jurisdiction in which the renter or lessor is located when it cannot readily be determined where the items will be used.

(2) If, at a later date, the renter or lessee decides to purchase the property which s/he previously had been renting or leasing, the seller, renting or leasing, is subject to the transportation sales tax based on the seller's location since the sale is consummated at his/her location. If the seller has more than one (1) location, the taxable situs will be the location where the initial order was taken. No deduction or allowance of any kind is to be allowed for any transportation sales tax previously paid on rent or lease receipts.

(3) When a customer within a local taxing jurisdiction in Missouri rents or leases tangible personal property from an out-of-state seller, the seller is subject to the appropriate transportation sales tax imposed by the local taxing jurisdiction in which the renter or lessee will use or install the property. These transactions are not sales at retail but constitute taxable services.

(4) Persons leasing or renting tangible personal property to religious, civic and charitable organizations or institutions and elementary and secondary schools operated at public expense are subject to the transportation sales tax on the lease or rental receipts.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-6 originally filed as C.S.T. regulation 540-7 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.570 Location of Machine Determines

PURPOSE: This rule provides that the location of vending machines determines the applicability of transportation sales tax and interprets and applies section 94.620.5, RSMo (1986).

(1) The location of a vending machine, not the

location of the owner of the vending machine, determines the applicability of the transportation sales tax. All vending machines located within the limits of a local taxing jurisdiction imposing a transportation sales tax are subject to the transportation sales tax of the local taxing jurisdiction in which they are located.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-7 originally filed as C.S.T. regulation 520-1A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.575 Items Taken from Inventory

PURPOSE: This rule provides that the taxpayer is liable for transportation sales tax where items purchased under a resale exemption are subsequently withdrawn from inventory and interprets and applies section 94.620.5, RSMo (1986).

(1) When a person who purchases items under a resale exemption certificate withdraws items from inventory for personal use, the items are subject to transportation sales tax if they were purchased within a local taxing jurisdiction imposing a transportation sales tax regardless of where the items are used. The taxpayer must report the transportation sales tax due on his next return.

(A) Example 1. Mr. Rusty operates an antique store in Gold City, a city which does not have a transportation sales tax. Mr. Rusty purchases three (3) antique rockers from a dealer located in Mountain City and issues the dealer a resale exemption certificate. Mr. Rusty decides to withdraw one (1) rocker from his inventory and use it in his home. Mountain City has a transportation sales tax. Since the rocker was purchased in Mountain City, on his next return Mr. Rusty must remit both state and transportation sales tax, based on the cost of the rocker.

(B) Example 2. Mr. Kold operates an appliance store in White City, a city which has a transportation sales tax. Mr. Kold purchases all of his appliances from a company located in Heavy City which also has a transportation sales tax. Mr. Kold issues a resale exemption certificate to his supplier for all of his purchases. Mr. Kold decides to take a refrigerator out of inventory for use in his home. Mr. Kold must remit state and local sales tax based on the cost of the refrigerator on his next return. Heavy City's transportation sales tax would apply as the refrigerator

was purchased in Heavy City. Should Mr. Kold use the refrigerator for one (1) year in his home and subsequently return the used refrigerator to his stock of goods, sales tax would be due on the selling price of the refrigerator when resold to a subsequent purchaser. In this situation, White City's transportation sales tax would apply.

(C) Example 3. Mr. Lowd operates a radio store in Ham City, which has a transportation sales tax. Mr. Lowd purchases all of his radios from an out-of-state supplier and issues a resale exemption certificate for all of his purchases. If Mr. Lowd decides to remove a radio from inventory to use himself, transportation sales tax would not be due as the radio was purchased from out-of-state.

Auth: section 94.615, RSMo (1986). T.T. regulation 620-8 originally filed as C.S.T. regulation 540-5A Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.585 Motor Vehicles

PURPOSE: This rule provides that sellers engaged in selling motor vehicles are not liable for and should not collect the tax and interprets and applies section 94.635, RSMo (1986).

(1) Sellers engaged in selling motor vehicles should not collect the state sales tax since the purchaser of the property is required by law to remit state sales tax to the Bureau of Motor Vehicle Registration, Missouri Department of Revenue, at the time the property is titled and registered or show sufficient evidence that state sales tax is not due. The same holds true for transportation sales tax in that the tax is payable at the time of titling, provided the purchaser's address is within the limits of a local taxing jurisdiction imposing a transportation sales tax.

Auth: section 94.615, RSMo (1986). T.T. regulation 635-1 filed as C.S.T. regulation 560-1 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1 last filed Dec. 31, 1975, effective Jan. 10, 1976.



12 CSR 10-5.590 Over-the-Road Trailers

PURPOSE: This rule indicates that purchasers of over-the-road trailers are subject to the transportation sales tax of the city in which they reside and interprets and applies sections 94.560 and 144.070, RSMo (1986).

(1) Transportation sales taxes which are imposed on the purchase and sale of over-the-road trailers shall not be collected and remitted by the seller but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a city imposing a transportation sales tax.

Auth: section 94.615, RSMo (1986). T.T. regulation 635-2 originally filed as C.S.T. regulation 560-3 Dec. 31, 1975, effective Jan. 10, 1976. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

Wiethop Truck Sales, Inc. et al. v. James R. Spradling, 538 SW2d 585 (Mo. 1976). Provision of the City Sales Tax Act imposing on the seller the duty of collection of a city sales tax on the sale of any new or used car does not, either expressly or by plain implication, modify statute requiring the director of revenue to collect the Missouri sales tax and, thus, does not shift the burden of collecting city sales taxes on trailers from the director of revenue to sellers of trailers.

12 CSR 10-5.595 Mobile Homes

PURPOSE: This rule indicates sellers of mobile homes are subject to tax.

(1) Sellers will be subject to both state and local sales tax on the sales of mobile homes.

Auth: section 94.615, RSMo (1986). T.T. regulation 635-3 originally filed as C.S.T. regulation 560-2 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.

12 CSR 10-5.605 Delinquent Tax

PURPOSE: This rule provides that delinquent transportation sales tax shall be collected in the same manner as state sales tax and interprets and applies section 94.640, RSMo (1986).

(1) The collection of delinquent transportation sales tax will be conducted in the same manner as provided for in sections 144.010—144.510, RSMo (1986) and more specifically, in sections 144.210, 144.220, 144.230, 144.240, 144.250 and 144.261, RSMo (1986).

Auth: section 94.615, RSMo (1986). T.T. regulation 640-1 originally filed as C.S.T. regulation 570-1 Oct. 28, 1975, effective Nov. 7, 1975. Made applicable by statute and T.T. regulation 615-1, last filed Dec. 31, 1975, effective Jan. 10, 1976.